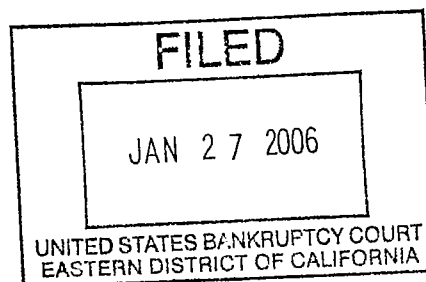


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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No. 05-33202-C-7
)	
ROBERT G. ROSE and)	MC No. SB-1
LEORA L. ROSE,)	
)	
Debtors.)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM AUTOMATIC STAY**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014. Evidence was taken pursuant to Federal Rule of Civil Procedure 43(e), as incorporated by Federal Rule of Bankruptcy Procedure 9017 and as invoked by Local Bankruptcy Rule 9014(e).

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334.
This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

23

1 Findings of Fact

2 Debtors filed their voluntary chapter 7 petition
3 on September 29, 2005. They scheduled a 2003 Ford Windstar
4 ("vehicle") as property of the estate. The first meeting of
5 creditors was held on November 3, 2005. The chapter 7 trustee
6 filed a report finding that there is no property available for
7 distribution from the estate over and above that exempted by
8 the debtor. The court observes that debtors were discharged
9 from all dischargeable debts on January 10, 2006.

10 On December 22, 2005, Wells Fargo Bank ("movant")
11 filed a motion, notice, and declaration requesting that this
12 court vacate the automatic stay to permit movant to repossess
13 the vehicle. The Kelley Blue Book value of the vehicle is
14 approximately \$9,825. Movant holds a lien on the vehicle in
15 the approximate amount of \$12,128.50. The court is not aware
16 of any other liens against the vehicle. No opposition to the
17 motion was filed. Upon review of the record, the court
18 determined that the written record was adequate and that no
19 oral argument is necessary.

20
21 Conclusions of Law

22 The automatic stay of acts against debtors in
23 personam and of acts against property other than property of
24 the estate continues until the earliest of the time when the
25 bankruptcy case is closed, dismissed, or an individual in a
26 chapter 7 case is granted a discharge. 11 U.S.C. § 362(c).

27 The automatic stay may be terminated earlier if
28 debtors fail to protect the secured party's interest

1 adequately, § 362(d)(1), and, with respect to a stay of an act
2 against property, debtors do not have equity in the property, §
3 362(d)(2)(A), and the property is not necessary to an effective
4 reorganization. 11 U.S.C. § 362(d)(2)(B). The issue of
5 whether the property is necessary to an effective
6 reorganization is not considered in a chapter 7 case because no
7 reorganization is contemplated in a chapter 7 case.

8 Although the debtors do not appear to have any
9 equity in the vehicle, since the debtors were granted a
10 discharge, the motion for relief from the automatic stay is
11 moot as to the debtors. Thus, the motion will be denied.

12 However, because the chapter 7 trustee filed a no
13 asset report, and filed no opposition to the motion, the motion
14 will be granted as to the trustee.

15 An appropriate order will issue.

16 Dated: January 27, 2006

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20 UNITED STATES BANKRUPTCY JUDGE
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CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Robert & Leora Rose
P.O. Box 1197
Biggs, CA 95917

Kendal Cornell
686 Rio Lindo Ave.
Chico, CA 95926

John Reger
P.O. Box 933
Palo Cedro, CA 96073

Office of the United States Trustee
United States Courthouse
501 "I" Street, Suite 7-500
Sacramento, CA 95814

Carolyn Morris
P.O. Box 3947, 1350 Montego Way
Walnut Creek, CA 94598

Dated: 1-30-06



Deputy Clerk

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

CERTIFICATE OF MAILING

The undersigned deputy clerk in the office of the United States Bankruptcy Court for the Eastern District of California hereby certifies that a copy of the document to which this certificate is attached was mailed today to the following entities listed at the address shown on the attached list or shown below.

UNITED STATES
TRUSTEE OFFICE
501 I STREET #7-500
SACRAMENTO, CA 95814

DATED: 1-30-06

By: M. Anderson

Deputy Clerk

EDC 3-070 (New 4/21/00)